

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Harassing and Obscene Communications Act is
5 amended by changing Sections 1-2 and 2 as follows:

6 (720 ILCS 135/1-2)

7 Sec. 1-2. Harassment through electronic communications.

8 (a) Harassment through electronic communications is the
9 use of electronic communication for any of the following
10 purposes:

11 (1) Making any comment, request, suggestion or
12 proposal which is obscene with an intent to offend;

13 (2) Interrupting, with the intent to harass, the
14 telephone service or the electronic communication service
15 of any person;

16 (3) Transmitting to any person, with the intent to
17 harass and regardless of whether the communication is read
18 in its entirety or at all, any file, document, or other
19 communication which prevents that person from using his or
20 her telephone service or electronic communications device;

21 (3.1) Transmitting an electronic communication or
22 knowingly inducing a person to transmit an electronic
23 communication for the purpose of harassing another person

1 who is under 13 years of age, regardless of whether the
2 person under 13 years of age consents to the harassment, if
3 the defendant is at least 16 years of age at the time of
4 the commission of the offense;

5 (3.5) Electronically communicating directly with
6 another person with the intent to commit a violation of
7 Article 11 or Article 12 of the Criminal Code of 1961 with
8 that person, and when the person initiating the
9 communication is 18 years of age or older and the party
10 communicated with is, or is believed to be, under 18 years
11 of age;

12 (4) Threatening injury to the person or to the property
13 of the person to whom an electronic communication is
14 directed or to any of his or her family or household
15 members; or

16 (5) Knowingly permitting any electronic communications
17 device to be used for any of the purposes mentioned in this
18 subsection (a).

19 (a-5) Telecommunications carriers, commercial mobile
20 service providers, and providers of information services,
21 including, but not limited to, Internet service providers and
22 hosting service providers, are not liable under this Section,
23 except for willful and wanton misconduct, by virtue of the
24 transmission, storage, or caching of electronic communications
25 or messages of others or by virtue of the provision of other
26 related telecommunications, commercial mobile services, or

1 information services used by others in violation of this
2 Section.

3 (b) As used in this Act:

4 (1) "Electronic communication" means any transfer of
5 signs, signals, writings, images, sounds, data or
6 intelligence of any nature transmitted in whole or in part
7 by a wire, radio, electromagnetic, photoelectric or
8 photo-optical system.

9 (2) "Family or household member" includes spouses,
10 former spouses, parents, children, stepchildren and other
11 persons related by blood or by present or prior marriage,
12 persons who share or formerly shared a common dwelling,
13 persons who have or allegedly share a blood relationship
14 through a child, persons who have or have had a dating or
15 engagement relationship, and persons with disabilities and
16 their personal assistants. For purposes of this Act,
17 neither a casual acquaintanceship nor ordinary
18 fraternization between 2 individuals in business or social
19 contexts shall be deemed to constitute a dating
20 relationship.

21 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)

22 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

23 Sec. 2. Sentence.

24 (a) Except as provided in subsection (b), a person who
25 violates any of the provisions of Section 1, 1-1, or 1-2 of

1 this Act is guilty of a Class B misdemeanor. Except as provided
2 in subsection (b), a second or subsequent violation of Section
3 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which
4 the court shall impose a minimum of 14 days in jail or, if
5 public or community service is established in the county in
6 which the offender was convicted, 240 hours of public or
7 community service.

8 (b) In any of the following circumstances, a person who
9 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of
10 a Class 4 felony:

11 (1) The person has 3 or more prior violations in the
12 last 10 years of harassment by telephone under Section 1-1
13 of this Act, harassment through electronic communications
14 under Section 1-2 of this Act, or any similar offense of
15 any state;

16 (2) The person has previously violated the harassment
17 by telephone provisions of Section 1-1 of this Act or the
18 harassment through electronic communications provisions of
19 Section 1-2 of this Act or committed any similar offense in
20 any state with the same victim or a member of the victim's
21 family or household;

22 (3) At the time of the offense, the offender was under
23 conditions of bail, probation, mandatory supervised
24 release or was the subject of an order of protection, in
25 this or any other state, prohibiting contact with the
26 victim or any member of the victim's family or household;

1 (4) In the course of the offense, the offender
2 threatened to kill the victim or any member of the victim's
3 family or household;

4 (5) The person has been convicted in the last 10 years
5 of a forcible felony as defined in Section 2-8 of the
6 Criminal Code of 1961; or

7 (6) The person violates paragraph (4.1) of Section 1-1
8 or paragraph (3.1) or (3.5) of subsection (a) of Section
9 1-2.

10 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)